

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 -vs-) Case No. 19 CR 900
)
 KENTRELL BROWN,) Chicago, Illinois
) January 25, 2021
) 3:00 p.m.
 Defendant.)

TRANSCRIPT OF PROCEEDINGS
VIA VIDEOCONFERENCE - Sentencing
BEFORE THE HONORABLE JOHN J. THARP, JR.

APPEARANCES:

For the Plaintiff: UNITED STATES ATTORNEY'S OFFICE
BY: MR. SHAWN DANIEL McCARTHY
219 S. Dearborn Street
Suite 500
Chicago, IL 60604

For the Defendant: FEDERAL DEFENDER PROGRAM
BY: MR. GEOFFREY McDONNELL MEYER
55 E. Monroe Street
Suite 2800
Chicago, IL 60603

Court Reporter: KELLY M. FITZGERALD, CSR, RMR, CRR
Official Court Reporter
United States District Court
219 South Dearborn Street, Room 1420
Chicago, Illinois 60604
Telephone: (312) 818-6626
kmftranscripts@gmail.com

1 (Proceedings heard via videoconference:)

2 THE COURT: All right. Good afternoon, everyone.
3 This is Judge Tharp. Can everyone hear me?

4 MR. McCARTHY: Yes, Your Honor.

5 MR. MEYER: Yes, Judge.

6 THE COURT: All right. Are we prepared to go forward
7 with our sentencing hearing?

8 MR. McCARTHY: Yes, Your Honor. The government is
9 ready.

10 THE COURT: All right. It looks we may have just
11 lost Mr. Meyer. There we go.

12 Okay. This is United States v. Kentrell Brown, 19 CR
13 900.

14 Will government counsel put your appearance on the
15 record, please.

16 MR. McCARTHY: Good afternoon, Your Honor. Shawn
17 McCarthy on behalf of the United States.

18 THE COURT: All right.

19 And counsel for Mr. Brown?

20 We seem to have lost Mr. Meyer. Mr. Meyer, can you
21 hear me? If you can hear me, we're not seeing or hearing you,
22 but you're still listed as a participant.

23 Mr. Meyer, can you hear us?

24 MR. MEYER: Yes, Judge, I can hear you.

25 THE COURT: There you go. We lost you for about

1 three minutes there.

2 MR. MEYER: Sorry about that.

3 THE COURT: You want to put your appearance on the
4 record?

5 MR. MEYER: Good afternoon, Judge. Geoffrey Meyer
6 from the Federal Defender Program on behalf of Mr. Brown.

7 THE COURT: All right.

8 And our probation officer, Ms. Fowlie?

9 PROBATION OFFICER: Yes. Good afternoon, Your Honor.
10 Rebecca Fowlie on behalf of the probation department.

11 THE COURT: All right.

12 This is a videoconference sentencing hearing, and I
13 just want to confirm before we go any further, Mr. Meyer, that
14 you have discussed the issue of proceeding by video versus
15 in-person hearing and the defendant is waiving his right to be
16 sentenced in an in-person, in-court hearing; is that correct?

17 MR. MEYER: Yes, Judge, that is correct.

18 THE COURT: All right.

19 Mr. Brown, would you raise your right hand, please.

20 Do you swear or affirm that all the statements that
21 you make in the course of this sentencing hearing will be the
22 truth, the whole truth, and nothing but the truth?

23 You may be on mute, Mr. Brown. Sorry. We can't hear
24 you.

25 THE DEFENDANT: Could you hear me now?

1 THE COURT: Now we can hear you.

2 THE DEFENDANT: Yeah, it was on mute.

3 THE COURT: Okay.

4 All right. I want to make sure that --

5 THE CLERK: Excuse me, Judge.

6 THE COURT: Yes, Alberta?

7 THE CLERK: I did not hear him say "I do."

8 THE COURT: All right. We'll do that one more time
9 since we were interrupted, Mr. Brown.

10 Do you swear or affirm that all the statements that
11 you make in the course of this hearing will be the truth, the
12 whole truth, and nothing but the truth?

13 THE DEFENDANT: Yes.

14 THE COURT: All right. I'm going to ask you -- we're
15 getting a lot of feedback. I'm going to ask you to go back on
16 mute unless you are going to be speaking; all right?

17 THE DEFENDANT: Okay.

18 THE COURT: All right. I want to make sure that I
19 have reviewed everything that's been submitted for this
20 hearing.

21 In addition to reviewing the plea declaration and the
22 presentence investigation report, I have reviewed the
23 probation office's sentencing recommendation, the government's
24 version of the offense, the government's sentencing
25 memorandum, the defendant's sentencing memorandum, the

1 defendant's response to the government's memorandum and a
2 collection of four letters of support submitted on behalf of
3 Mr. Brown.

4 Is there any other material that was submitted that I
5 have not referenced?

6 MR. MEYER: Not on behalf of the defense.

7 MR. McCARTHY: Not on behalf of the government,
8 Your Honor.

9 THE COURT: All right. Is either party intending to
10 make any evidentiary presentation today?

11 MR. McCARTHY: Not on behalf of the government,
12 Your Honor.

13 THE COURT: Mr. Meyer?

14 MR. MEYER: Not on behalf of the defense, Judge, but,
15 Judge, if I could interrupt for just a moment. I apologize.
16 I'm having some connection issues. With the Court's
17 permission, I'm going to dial in by telephone and mute my
18 video.

19 THE COURT: All right. That's fine.

20 MR. MEYER: Thank you.

21 This is Geoffrey Meyer. Are you able to hear me?

22 THE COURT: We could hear you. We could also still
23 see you.

24 MR. MEYER: Okay. Then I believe we're ready to
25 proceed.

1 THE COURT: All right. Okay. I'm sorry. Everything
2 that's been submitted, let's turn to the presentence
3 investigation report.

4 Two aspects of that report. First, were there any
5 objections to the facts set forth in the PSR? I don't believe
6 either party identified any factual errors, but, Mr. Meyer,
7 any factual corrections to the PSR from the defense?

8 MR. MEYER: There are none from the defense, Judge.

9 THE COURT: All right.

10 Mr. McCarthy?

11 MR. McCARTHY: None on behalf of the government,
12 Your Honor.

13 If I may interrupt for just one moment. Do we still
14 have the defendant? My monitor shows that he --

15 THE COURT: Thank you. I missed that.

16 Mr. Brown, are you still with us?

17 THE DEFENDANT: Yes. Yes, I'm here.

18 THE COURT: Could you let the correctional officer
19 know that we don't have you on video?

20 THE DEFENDANT: All right.

21 THE COURT: We could see you. Can you hear us?

22 THE DEFENDANT: Yes.

23 THE COURT: Moving right ahead, there were no factual
24 objections to the PSR. Let's turn to the calculation of the
25 advisory sentencing guideline range.

1 Mr. Meyer, I understand the defense -- my
2 understanding is the defense does not object to the
3 calculation, but you have arguments that the criminal history
4 category is effectively overstated due to the juvenile
5 convictions.

6 MR. MEYER: That's correct, Judge. That's our
7 position.

8 THE COURT: Okay.

9 And the government had no objections to the
10 calculation of the guideline range, Mr. McCarthy?

11 MR. McCARTHY: No, Your Honor.

12 THE COURT: All right. So there are no objections to
13 the accuracy of the calculation of the guideline range set
14 forth in the presentence investigation report. I'm not going
15 to reiterate that calculation. The bottom line of that
16 calculation is that the final offense level is 12, criminal
17 history category is VI. And the combination of criminal
18 history category VI and offense level of 12 yields an advisory
19 sentencing guideline range of 30 to 37 months, a supervised
20 release range of one to three years and a fine range of \$5,500
21 to \$55,000.

22 Any other issues with respect to the calculation of
23 the advisory guideline range?

24 MR. MEYER: Not from the defendant.

25 MR. McCARTHY: None from the government.

1 THE COURT: Okay. Then we'll turn to consideration
2 of all of the factors, including the advisory sentencing
3 guideline range that the Court is required to take into
4 account in determining the appropriate sentence to impose in
5 this case.

6 I'll hear first from Mr. McCarthy on behalf of the
7 government, then Mr. Meyer on behalf of Mr. Brown.

8 And, Mr. Brown, once your attorney has made his
9 arguments on your behalf, you have the right to address the
10 Court yourself if you wish to do so. You're not required to
11 do so. If you choose not to do so, that will not be held
12 against you, but you will have that opportunity once Mr. Meyer
13 has -- or Mr. Meyer has made all his arguments; all right?

14 THE DEFENDANT: Yes.

15 THE COURT: Okay. All right.

16 Mr. McCarthy.

17 THE COURT REPORTER: Judge, could we please put
18 Mr. Brown back on mute to eliminate some of the feedback?
19 Thank you.

20 THE COURT: Yes.

21 Mr. Brown, we've got you on mute again, but I'll
22 unmute you if you need to say anything.

23 All right. Mr. McCarthy.

24 MR. MCCARTHY: Thank you, Your Honor.

25 Your Honor, this defendant is a relatively young

1 offender. However, he is not a new offender. This defendant
2 has a history of committing crimes. When evaluating this
3 defendant's criminal history, at merely the age of 23, it's
4 astonishing that he has had so many weapons offenses, a couple
5 of which is weapons offenses, as Your Honor I'm sure viewed in
6 the exhibits attached to the government's memorandum, this
7 defendant simply always has a firearm. He doesn't just have a
8 firearm. He brandishes firearms. He flashes firearms.

9 And in this case, Your Honor, what's most disturbing
10 is this defendant brought his own firearm to a range. Knowing
11 that he was a convicted felon, this defendant still felt
12 comfortable enough, still had the audacity and the nerve to
13 bring a gun into a firing range. He had been convicted of gun
14 crimes before. He knew he could not have a firearm, yet he
15 brings his own gun into the firearm [verbatim]. He uses
16 another person to purchase ammunition.

17 The defendant is so brazen and so disrespectful and
18 has such little regard for the law, he used his social media
19 to broadcast himself, broadcast himself violating the law,
20 broadcast him self committing felonies, and he talks about it
21 on social media. He goes into detail on how he is going to
22 load the gun with the ammunition and how he fires the weapon.
23 He even describes on there what kind of gun he's using. And
24 even more disturbing than that, Your Honor, he brings back the
25 target after having fired the nine bullets that he said he was

1 going to put into the gun, he counts out what he describes as
2 "head shots," all of this being broadcast on social media for
3 the whole world to see, all of it for this defendant to show
4 he has no regard for the law. This defendant has no regard
5 for safety, no regard for rules, all this at such a young age.
6 He knows better, Your Honor.

7 When you look at the videos that were submitted, the
8 exhibits that were submitted to the government's sentencing
9 memorandum, in the one video where the defendant is sitting in
10 what appears to be a bedroom with many other individuals
11 smoking some sort of substance, the defendant at various times
12 holding two guns, pointing them at the camera, oftentimes
13 holding one of the guns upside down.

14 If it weren't enough that the defendant is a
15 convicted felon having a gun, the defendant handles the guns
16 in a completely reckless manner. The defendant while holding
17 these guns in this room even says, "I have court tomorrow."
18 The defendant knows he is under the Court's eye, yet he still
19 broadcasts to the world through social media, through Facebook
20 Live, his utter disregard.

21 This defendant has been given chances, Your Honor,
22 and each time this defendant thumbs his nose and continually
23 breaks the law.

24 The defendant has criminal convictions for firearms
25 offenses, yet he continues to possess firearms. The defendant

1 has not learned from prior sentences that took into
2 consideration his young age. At this point, Your Honor, a
3 sentence needs to grab this defendant's attention to let him
4 know while he may be young, he is not a child. He does and
5 should know better. And only a sentence that will express
6 that he is no longer a child and there are real ramifications
7 for his actions, his willful actions, his choices to disregard
8 and violate the law will be appropriate.

9 Our community is plagued with gun violence. There
10 are guns all over the streets of Chicago, all over Cook
11 County, all over the Northern District of Illinois.
12 Repeatedly we see this defendant with multiple firearms,
13 brandishing those firearms, showing those firearms off. It's
14 only a matter of time that this defendant continues this way
15 before one of those firearms is going to be used in a manner
16 in which a life will be lost. A sentence needs to be imposed
17 to get that message across not only to this defendant but to
18 the community at large that illegal firearms are a problem.
19 Illegal firearms will be addressed by the Court in a manner in
20 which keeps all of us safe.

21 For those reasons, Your Honor, and those argued in
22 the government's version as well as in the government's
23 sentencing memorandum, coupled with the exhibits that were
24 provided to Your Honor, the government would ask that
25 Your Honor sentence this defendant to a term within the

1 guidelines range.

2 THE COURT: All right.

3 MR. McCARTHY: Including --

4 THE COURT: Go ahead. Sorry.

5 MR. McCARTHY: As well as supervised release of three
6 years, Your Honor. Thank you.

7 THE COURT: All right. Thank you, Mr. McCarthy.
8 Mr. Meyer.

9 MR. MEYER: Thank you, Judge.

10 The government might see this case very differently
11 in many respects. The government sees someone who is showing
12 utter disregard for the law and for court orders. I see
13 someone who is very immature.

14 The government sees someone who has been given
15 chances in the past by the criminal justice system. I see
16 someone who exemplifies many of the failures of the overworked
17 Cook County juvenile justice system and its inability to
18 provide support to the people who come through the system.

19 The government believes that a sentence imposed today
20 needs to grab Mr. Brown's attention. And while in some
21 respects that may be true, I think it's hard to look at a
22 person in Mr. Brown's situation, someone who has been
23 incarcerated over the last it's going on 14 months I believe
24 now in a county Jail in the middle of a global pandemic and
25 not recognize that that person has had their attention

1 grabbed. This sentence that he's been serving at the
2 Kendall County Jail is not only the longest sentence that he's
3 served in his life, it's certainly the most severe and,
4 frankly, the most frightening.

5 I recognize the importance of the videos that the
6 government provided to you, and I think they are kind of at
7 the crux of what sentence is appropriate to impose in this
8 case, but, again, I view them very differently than the
9 government. You know, taking out the firearm from the video
10 that appears to be in the bedroom, the Facebook Live stream in
11 the bedroom, you've got a group of teenage or just barely in
12 their twenties young men who are horsing around in many of the
13 same ways that we expect teenagers to horse around in. You
14 know, they're listening to music. They're singing along with
15 the television. They're playing video games. They're
16 engaging in horseplay amongst themselves. Now, I recognize
17 that you can't take out the firearms in that video, that there
18 are firearms there, and that is certainly concerning.

19 And I want to make clear that we're not asking in the
20 sentence that we propose that the Court excuse Mr. Brown's
21 conduct altogether. He recognizes that he violated the law.
22 He recognizes that he's done wrong and he needs to be
23 punished. What we're proposing is a punishment that we
24 believe is more commensurate with his mindset and his maturity
25 at the time that these offenses and his prior offenses were

1 committed.

2 I looked at a lot of the electronic evidence in this
3 case, and I have to be frank. You know, my first reaction
4 when I see that Mr. Brown is broadcasting on Facebook Live his
5 time at the shooting range, one, the government is correct.
6 He knows that he's not permitted to possess a firearm. I look
7 at that, and I think to myself, how could that have happened?
8 That's so stupid, for lack of a better word. And I want to be
9 clear, I'm not calling Mr. Brown stupid. I think the action
10 is stupid. Mr. Brown, when I talk to him and as I've gotten
11 to know him over the course of the last a little more than a
12 year actually is a very intelligent person. So I think some
13 of the struggle that I've had is reconciling what happened in
14 these videos and the intelligent young man that I've gotten to
15 know. And where I'm left is maturity and the level of
16 maturity that Mr. Brown has shown and frankly the level of
17 maturity we're starting to understand as we look into the
18 science more that goes along with brain development and how,
19 you know, even though we've chosen 18 as an age -- a cutoff
20 age for people to transition from childhood into adulthood,
21 that we're starting to realize that just because we've chosen
22 that date doesn't mean that the brain develops that way.

23 And I think this case is actually a really powerful
24 example of that. I think it speaks to many of the themes that
25 the Supreme Court has returned to repeatedly when discussing

1 juveniles and youth: recklessness, impulsivity, risk taking,
2 the fact that youths are more vulnerable to negative
3 influences and outside pressures, transient rashness,
4 proclivity for risk, inability to assess consequences. I
5 think those are on full display in this case and in those
6 videos.

7 Now, this doesn't absolve Mr. Brown of
8 responsibility. He recognizes that, and I recognize that.
9 But I think it does speak to what is the appropriate sentence
10 of imprisonment to impose on him because it goes to his
11 mindset, and it goes to what he was doing with those firearms.
12 He wasn't using the firearms to commit other crime, to commit
13 violent crime. In some respects, I think they are defensive.
14 Mr. Brown, even though he is very young, has already been the
15 victim of gun violence, so he's well familiar that communities
16 in the Chicagoland area are plagued by gun violence. He knows
17 that because he's twice been a victim. And it is not uncommon
18 for us to see particularly younger people carry and carry
19 openly in a defensive manner to protect from being a victim of
20 gun violence again. It might not make sense to those of us
21 who didn't grow up in those communities, but it is certainly
22 something that I see in my practice again and again.

23 And then another aspect of this case in particular
24 that doesn't necessarily come up in my general practice is
25 Mr. Brown was an aspiring artist. And to be clear, I'm not

1 arguing that this excuses his conduct. But I think
2 particularly the second letter that we provided to the Court
3 in our response to the government's sentencing memo goes a
4 long way in explaining the online persona that Mr. Brown was
5 attempting to put forth and frankly was successfully gaining
6 him an online social media presence. One of the videos that
7 the government submitted to you as an Instagram Live, which I
8 think is where the government took it, is actually a
9 well-produced rap video of one of Mr. Brown's songs. And as
10 he explains in his letter, this was the way he thought he had
11 to break into the industry.

12 Now, he knows today that that's not the case and he
13 can't do that going forward because he's lived the reason he
14 can't for the last, you know, 13, 14 months. It landed him in
15 the Kendall County Jail in the middle of a pandemic. He lost
16 two family members while he was incarcerated and was unable to
17 attend the funeral services, two of his older brothers that he
18 was very close with, and that was a very, very difficult thing
19 for him to do, or not to be able to do.

20 So he has had a great deal of time to think about
21 what he needs to mature, what he needs to do in the future in
22 order to remain out of the criminal justice system and remain
23 with his family, which frankly has been the hardest part for
24 him since he's been at the Kendall County Jail, is being away
25 from his family.

1 So I think in his two letters to the Court that we've
2 submitted, he's shown a great deal of self-reflection and a
3 great deal of looking forward and making plans. He started
4 the GED classes when he could in Kendall County. He certainly
5 intends to continue with those when he's out. And he also has
6 been in contact with his former employer to make sure that he
7 has a job waiting for him when he is released. And he does
8 have a supportive family to return to.

9 So we believe that looking at his age, looking at his
10 maturity level and looking at how overstated that criminal
11 history score is in the guidelines that the original
12 guidelines that we and the government had contemplated when he
13 pleaded guilty are more appropriate for the Court as the
14 starting point here. We are asking the Court to vary below
15 those guidelines range down to 18 months and instead swap in a
16 six-month period of home incarceration. And that particular
17 swap is in recognition of two things: one, the pandemic; and,
18 two, that Mr. Brown, as a young person who is still developing
19 and still maturing, could really benefit from the far greater
20 resources of the federal U.S. Probation Office and that six
21 months of home incarceration with contact with a probation
22 officer will be far more rehabilitative for him than six
23 months in the Bureau of Prisons which is likely to remain on
24 lockdown, you know, for the better part of the next year is
25 everyone's best guess.

1 So that's how we came up with the sentence that we're
2 proposing to the Court, and we believe, based on the
3 circumstances of this case and for the reasons I've talked
4 about today and the reasons we purport in our submissions to
5 the Court, that 18 months of incarceration with six months of
6 home incarceration to follow with a total of three years of
7 supervised release is the appropriate sentence to impose
8 today.

9 THE COURT: All right. Thank you, Mr. Meyer.

10 All right. Mr. Brown, this is your opportunity if
11 you wish to address the Court directly. Again, you have that
12 opportunity, but you're not required to say anything at all.
13 If you do say anything, it will be considered by the Court in
14 assessing the appropriate sentence to impose.

15 Do you wish to address the Court?

16 THE DEFENDANT: Yeah. Could you hear me?

17 THE COURT: Yes, I can. Thank you.

18 THE DEFENDANT: Yeah. I just wanted to say that I
19 just feel like being down here, I just really found better
20 things to do and that I was immature when I was out there
21 doing a lot of things that I shouldn't have had no business
22 doing. And I just feel like I gained a lot from being down
23 here.

24 THE COURT: Okay. Anything else?

25 THE DEFENDANT: No, not really. I think I covered

1 everything in my letter.

2 THE COURT: Okay. And I did read your letter. Thank
3 you.

4 Okay. Under Title 18 of the United States Code,
5 Section 3553(a), I am required to impose a sentence that is
6 sufficient but not greater than necessary to promote the
7 various objectives of sentencing that are set forth in that
8 statute. Those purposes include the need for the sentence
9 imposed to reflect the seriousness of the offense, to promote
10 respect for the law and to provide just punishment for the
11 offense, to afford adequate deterrence to criminal conduct, to
12 protect the public from further crimes of the defendant and to
13 provide the defendant with needed educational or vocational
14 training, medical care or other correctional treatment in the
15 most effective manner.

16 To try to arrive at a sentence that will promote
17 those objectives, the Court must consider the nature and
18 circumstances of the offense and the history and
19 characteristics of the defendant. There are other factors the
20 Court must take into account as well, such as the kinds of
21 sentences available under the law, which is a category that
22 includes consideration of the advisory sentencing guideline
23 range. The Court is also required to consider the need to
24 avoid unwarranted sentencing disparities among defendants who
25 have similar records and who have been found guilty of similar

1 conduct, and other factors such as restitution that are not at
2 issue here.

3 Many of the facts and circumstances that bear on
4 these considerations are overlapping in that they may be
5 relevant to more than one objective, and sometimes the facts
6 that are relevant point in different directions in terms of
7 what they suggest the appropriate sentence in the case should
8 be. It's the Court's task to take into account all of those
9 circumstances in determining a sentence that is, again,
10 sufficient but not necessary -- sufficient but not greater
11 than necessary to promote the sentencing objectives.

12 I'm going to discuss some of the points that have
13 been made here and the factors that bear on the Court's
14 consideration of the appropriate sentence to impose here. I
15 start first with the seriousness of the offense.

16 (Brief interruption.)

17 THE COURT: Excuse me. For some reason my cell phone
18 is going off.

19 The charge here that Mr. Brown has been found guilty
20 of is unlawful possession of ammunition by a previously
21 convicted felon. In its base form, that is a serious offense
22 for the simple reason that firearms and felons are a very
23 volatile and dangerous combination. Firearms, of course, are
24 lethal weapons. There's no real point here in distinguishing
25 between ammunition and firearms. The ammunition is useless

1 without a firearm. The firearm is just about useless without
2 the ammunition. They go hand in glove.

3 The reason that we don't let people who have been
4 convicted of felonies possess firearms is because those people
5 have demonstrated that they don't have the judgment or the
6 capacity or the willingness to conform their conduct with the
7 law. And the idea of putting something that -- a moment's
8 poor judgment and inflict the kind of damage that a firearm
9 can inflict makes any combination of felons and firearms
10 dangerous, and that's why this crime exists.

11 Of course in this case there are a number of factors
12 that make this significantly more serious than just the base
13 level generic offense of possessing ammunition as a firearm --
14 as a felon. While that's the charge, the clear conduct here
15 involves more than the possession of ammunition. It involves
16 the possession of a firearm. I share Mr. McCarthy's concern
17 that, you know, this -- I've had other gun range felon in
18 possession cases where the defendant went to the gun range
19 with somebody with a FOID card and a gun was rented, was used
20 at the range and turned in, and the defendant left. That's a
21 situation that I have found presents, you know, less
22 culpability than most situations where there is possession of
23 a firearm. But that's not the situation here. Mr. Brown had
24 his own firearm to bring to the range, bought lots of ammo at
25 the range -- that's the basis of the offense that's been

1 charged -- and took some of that ammo with him and the firearm
2 from the range. And there's only one real reason that you
3 need ammunition, and that's to load a firearm. And we see in
4 the video the kind of conduct I guess -- you can't see for
5 sure if those many different firearms that Mr. Brown is seen
6 in possession of on these videos, don't know if they're
7 loaded, but they certainly got -- most of them have magazines,
8 and many of those magazines are extended magazines. So it's a
9 fair inference that Mr. Brown is buying ammunition, taking it
10 from the gun range to load the firearm or firearms that he is
11 frequently, if not constantly, as Mr. McCarthy has suggested,
12 in possession of. And whether you think you're carrying a
13 firearm around as a defensive mechanism or offensive, I'm
14 sure, you know, the other side in every shootout has said we
15 were on the defensive. We were just trying to protect
16 ourselves. Nobody ever says, oh, yeah, we were out there to
17 stir up trouble. We were out there to attack people without
18 any provocation. Everybody out there in every shootout, in
19 every gang shooting, is out there claiming to need to protect
20 themselves. The real people that need to protect themselves
21 are the little kids who get shot in their backyard or even get
22 shot in their living rooms, inside their houses, on front
23 porches because gang members are going around armed to the
24 teeth to retaliate and protect themselves.

25 Mr. Brown, what you're calling protection is what's

1 endangering the public today. I don't know if you were out
2 ever driving around cruising the streets with those firearms,
3 but I've got no reason to think they were just props in a
4 music video. Firearms aren't free, even on the street. And I
5 stopped trying to count the number of different firearms that
6 you're depicted in these videos and photographs as being in
7 possession of. And I don't know where these videos are coming
8 from. But it's not coming from your work, your temporary work
9 as a -- at a restaurant. So there is all kinds of aggravation
10 here. When I see those videos, I see someone thumbing their
11 nose at the law, showing absolute and utter disrespect,
12 committing crimes, broadcasting those crimes to your friends
13 and cohorts while you're on court supervision, and that is the
14 very definition of factors in aggravation. And the sentence
15 that is imposed in this case has to take those aggravating
16 factors into account.

17 There are some factors in mitigation with respect to
18 this offense. For whatever reason, the offense of conviction
19 is based on your conduct at a gun range. As I've said, in the
20 spectrum of things that people do, felons do with firearms,
21 being at a gun range is at least a less serious form of crime
22 in its generic sense, so I take that into some account. But
23 for the reasons that I've already indicated, it's not really a
24 ripe comparison to say -- to compare this with a felon who
25 just shows up for some target practice, rents a gun, turns it

1 in and leaves, carrying neither a weapon nor ammunition with
2 him.

3 And the biggest mitigating factor here is luck, luck
4 that this is a nonviolent offense, luck that on some occasion
5 when you possessed all those firearms with extended magazines
6 that somebody didn't take offense to your message or seek to
7 retaliate against you for something that somebody else did or
8 just decide all that cash and those weapons was too enticing a
9 target. I mean, there's countless things that can go wrong
10 when you're possessing loaded firearms in the company of other
11 young, immature males who are possessing loaded firearms.
12 It's a recipe for disaster.

13 I won't continue to beat this drum too much, but as
14 we transition into consideration of Mr. Brown's history and
15 characteristics, of course we have to start with criminal
16 record.

17 Mr. Brown, I have to say I think Mr. Meyer is right
18 when he wrote in his sentencing memorandum he's never had a
19 client in all his years as a criminal defense lawyer who
20 managed to put himself in criminal history category VI without
21 ever spending more than a year in jail. It's a dubious
22 accomplishment, but it's an accomplishment nonetheless. And I
23 don't think I've ever -- I know I've never seen anyone with
24 the juvenile record that you've amassed. And it's -- if
25 there's been one, I've forgotten. I can't recall anybody ever

1 being in criminal category VI at the ripe age of 22. So,
2 again, we have that dubious accomplishment to consider.

3 Mr. Meyer, I do understand your points with respect
4 to juvenile record, and your arguments about immaturity and
5 youthfulness certainly have the most force in the context of
6 15 year old and 16 year old Kentrell Brown. They've got a lot
7 less force when we're talking about 22 year old Kentrell Brown
8 as we are in this case. But I grant your point, and I do
9 agree as a result that the criminal history calculation really
10 does overstate Mr. Brown's record to some degree, and I will
11 take that into account. As I also take into account the
12 recidivism that's reflected there, whether it's the product of
13 immaturity or just recalcitrance, it's still recidivism, and
14 it still has to be considered by the Court. If this was a
15 case, if any sentencing of a defendant was only about the
16 defendant, the job of sentencing would be a lot simpler. I
17 don't doubt that Mr. Brown would benefit from lots of close
18 supervision, access to services, treatment programs, mental
19 health programs, educational programs, job skills training,
20 all of that would absolutely be great for Mr. Brown, but it's
21 not all about Mr. Brown. And for whatever reason Mr. Brown
22 didn't get those things, doesn't get those things as he comes
23 through the system, it may be unfortunate, but it's also the
24 reality that we have to deal with. And part of what this
25 sentence has to reflect in this case or to achieve in this

1 case is to protect the public. If Mr. Brown is too immature
2 or too abstinent or too recalcitrant or whatever the reason is
3 that he cannot or will not comport his conduct with the law,
4 we have to take that into account because part of what I have
5 to do here is ensure that the sentence is sufficient to
6 protect the public.

7 Mr. Brown has no high school diploma. He's got no
8 significant job experience. He's got no significant job
9 skills.

10 Mr. Brown, I don't mean that to denigrate whatever
11 musical talents you may have. But I can tell you the vast
12 majority of defendants who come through this court all aspire
13 to be a rap star and it's really, really sad. It's
14 particularly sad when I see somebody like yourself who has
15 himself been the product of violence, gun violence, who has
16 lost brothers to gun violence and then to hear that you're
17 putting -- and see that you're putting out videos glorifying
18 the culture that not only victimized you but victimized your
19 family members who you and your lawyer tell me you care more
20 about than anybody. And that's what's most important to you,
21 family. I can't even process that because I can't imagine the
22 reaction to losing two brothers to gun violence being to say,
23 hey, well, I know what I'm going to do. I'm going to go and
24 create some rap videos that glorify the culture that killed my
25 brothers. That's what you're doing.

1 It's not only hard to understand. It's going to be
2 unproductive because if you continue to glorify this culture,
3 you're never going to make it to a recording studio. You're
4 going to spend more and more time behind bars. The sentence
5 imposed in this case is going to be already the longest
6 sentence you've ever served. When you finish serving this
7 sentence, you get out and you go back to the same ways, you
8 touch a firearm, the next sentence is going to be even longer.
9 That's how it works. And I don't think you have to be very
10 mature and certainly don't have to be a rocket scientist to
11 understand that basic premise. If you don't get with the
12 program, the next time the message is louder.

13 The question of Mr. Brown's age, Mr. Meyer, really
14 cuts both ways. I certainly acknowledge what you said about
15 studies that show that brain development continues well into
16 the twenties. I guess I really already made this point. The
17 flip side of that is it creates a greater risk of recidivism
18 among the young, and that's borne out by statistics as well.
19 Age correlates, and usually that's presented to me as an
20 argument why somebody who is aging out of crime, but here it's
21 the flip side of the argument you've made saying he's too
22 immature to be fully held accountable for his crime because
23 that same immaturity creates greater risk of recidivism and
24 greater risk of danger to the public, greater risk of
25 continued criminal activity.

1 Considering Mr. Brown's health, there's no
2 significant health issues that bear on the sentence to be
3 imposed or that mitigate the offense. There is a record of
4 substantial prior substance abuse. It's on display in some of
5 those videos. And honestly, Mr. Brown, if we needed a public
6 health campaign to show the dangers of mixing guns and drugs,
7 the video of you in what I assume is your bedroom but
8 whoever's bedroom it was with about four or five of your
9 companions all smoking -- and Mr. McCarthy was being very
10 cautious and conservative in saying some substance. There's
11 no doubt that was marijuana. And at this point, under state
12 law, marijuana use isn't a crime under certain circumstances.
13 But there couldn't be a better illustration of the dangers of
14 making marijuana readily available because I have to think
15 part of -- it's not just immaturity that led you to create the
16 videos. It's the poor judgment that follows by getting high.
17 And it's that poor judgment that, again, goes back to why it's
18 so dangerous for you to possess firearms and why it's -- you
19 know -- you know, you should be lucky -- I feel lucky and the
20 Chicago public should feel lucky that you didn't leave that
21 room, go out on the streets with your loaded guns while you
22 were high and put the public at risk.

23 I'm going to address a couple of comments that
24 Mr. Meyer made.

25 Mr. Meyer, respectfully, the characterization of

1 what -- the conduct on the videos as horsing around is so far
2 from reality that I can't give it any credence. What's
3 depicted on those videos is not Mr. Brown horsing around.
4 It's Mr. Brown committing crimes knowingly, intentionally and
5 purposefully, willfully, almost celebrating the fact that he's
6 committing crimes. That's not teenage horsing around, and I
7 cannot accept in any way, shape or form that characterization
8 of the conduct.

9 Actually, looking at my notes here, I think I've
10 addressed most of the points. The last point I wanted to
11 address that you had made your comments about, Mr. Meyer, was
12 that the original guideline calculation that the parties
13 agreed to at the time of sentencing -- or excuse me -- at the
14 time of the plea -- or not agreed to, there wasn't a plea
15 agreement -- but contemplated I guess would be the right word
16 is the more appropriate starting point. Just as a technical
17 point, that's not correct. The appropriate starting point, as
18 the Supreme Court has instructed, including in *Gall*, a case
19 that your submission highlights, the appropriate starting
20 point for all sentencing hearings is the correct and accurate
21 calculation of the guideline range; and in that regard, the
22 PSR reflects the accurate calculation of the guideline range.
23 That doesn't mean, as I've already indicated, that I disagree
24 with your basic argument about giving the same kind of weight
25 to the juvenile convictions or adjudications than we do to

1 quote-unquote adult adjudications is appropriate, but to be
2 clear, the required starting point for the Court's analysis is
3 the applicable advisory guideline range. And that is the
4 starting point that I use in considering the appropriate
5 sentence to impose.

6 All right. So we talked about the seriousness of the
7 offense. The need to promote respect for the law is really
8 part and parcel of the deterrence question, in my view.
9 Again, this process is more complicated than speaking just to
10 Mr. Brown. The sentence that's imposed in this case has to
11 speak to a larger audience. It has to speak to all of
12 Mr. Brown's friends who are flashing gang signs and flashing
13 weapons and smoking weed and making rap videos that glorify a
14 culture of violence and illegality. It has to speak to them.
15 It also has to speak to all the people who are put in danger
16 by guns and gang activity every day because it has to
17 reinforce their confidence in the rule of law and the efficacy
18 of the rule of law, and that's a challenge today. It seems to
19 become more and more of a challenge every day. But that
20 doesn't mean we abandon the challenge or we succumb to
21 lawlessness. We don't celebrate lawlessness. We send a
22 message, we don't tolerate this conduct. We're not going to
23 tolerate this conduct. And that's part of what this message
24 has to be. It has to speak to the public. Probably no
25 individual is going to hear what sentence you got in this case

1 and decide, oh, I better put this gun down. That's not really
2 the issue. The issue is confidence in the rule of law and
3 what will happen if people lose confidence in the rule of law.
4 And what happens when people lose confidence in the rule of
5 law is we have chaos. So this sentence has to speak not only
6 to you, but it has to speak to the public, and it has to help
7 piece by piece promote respect for the law, which means
8 promoting respect for the rule of law.

9 I'm required to consider the need to avoid
10 unwarranted sentencing disparities. The Supreme Court has --
11 as it has said that the sentencing guideline range should be
12 the starting point for the Court's analysis of the factors
13 under Section 3553(a), the Supreme Court has also instructed
14 the best tool available for avoiding disparities among
15 similarly situated defendants is the guideline range because
16 imperfect though the guideline calculations may be, they're
17 based on objective criteria, and they prescribe or recommend
18 equivalent punishments for equivalent conduct and equivalent
19 personal characteristics to the extent they measure them. So
20 I have to give substantial consideration to the advisory
21 guideline range, and I do give substantial consideration to
22 that range.

23 I have to consider the kinds of sentences available
24 under the law. This crime could be punished by probation. It
25 will not be punished by probation. That would be grossly

1 inadequate to the seriousness of the offense. There's no
2 mandatory minimum sentence that applies here. The maximum
3 sentence that can be imposed is ten years. And, again, the
4 advisory guideline sentence is imprisonment for a term of 30
5 to 37 months.

6 All right. I think that addresses most of the points
7 that have been made in aggravation or mitigation by the
8 government and by the defense, but, Mr. Meyer, are there any
9 points in mitigation either that you neglected to discuss that
10 you wish to add or any points that you think that I have not
11 addressed adequately in my comments?

12 MR. MEYER: No, Judge. There's no additional point
13 in mitigation that I would like to raise. I would just like
14 to respond to one thing. I may have chosen my words
15 inartfully before when I suggested that the lower guidelines
16 range was the starting point. And I understand from the
17 Court's comments that I believe the Court understood what I
18 was trying to say, but just to clarify, we do acknowledge that
19 30 to 37 points is the appropriate starting point under the
20 guidelines. I think my comments were in recognition of the
21 Supreme Court's case law that says that the guidelines can't
22 be presumed to be reasonable. And what I probably should have
23 said was that we believe that the lower guidelines range is
24 more appropriate in this case.

25 THE COURT: Understood. Thank you.

1 Mr. McCarthy, anything else from the government?

2 MR. McCARTHY: No, Your Honor.

3 THE COURT: All right. Then I'm prepared to impose
4 the sentence in this case.

5 On July 16th of 2020, defendant Kentrell Brown
6 entered a plea of guilty to a charge of unlawful possession of
7 ammunition in violation of Title 18 of the United States Code,
8 Section 922(g).

9 I've considered all the arguments presented to me by
10 the government, by defense counsel. I've considered
11 Mr. Brown's statements here in court today. I've also
12 considered the letters that were submitted, both Mr. Brown's
13 letter and the letters submitted by family members and
14 friends.

15 And, actually, before I go further, I did want to
16 make a point to say, Mr. Brown, I read your letter, and I was
17 impressed by your letter. Your letter, you know, if I was
18 grading on a curve in terms of letters that defendants have
19 submitted to me, you get an A. That letter is well-written.
20 I mean, there's some mistakes. There was some misspellings.
21 But it's coherent. It's logical. It's well thought out. And
22 it tells me exactly what Mr. Meyer has told me, you're an
23 intelligent guy. You could do so much more than this. And
24 it's just going to be an utter waste if you continue
25 glorifying this culture that's going to keep you behind bars

1 until society is satisfied and you demonstrated that you've
2 outgrown it. What a tragedy that would be.

3 So I did read your letter, and I was impressed by
4 your letter. I'm impressed by the support that your family
5 members continue to give you here. But if they really want to
6 support you, what they need to do is echo what I've been
7 telling you and I bet you Mr. Meyer has been telling you as
8 well, is you've got to turn the page.

9 So I've considered those letters. I've considered
10 the federal sentencing guidelines. I've taken into
11 consideration all the factors set forth in Section 3553(a).
12 I've considered the totality of the circumstances in
13 fashioning a sentence for Mr. Brown.

14 The government has requested a sentence within the
15 applicable guideline range of 30 to 37 months. The defense
16 has asked for a sentence of 18 months of incarceration to be
17 followed with a term of supervised release of three years, the
18 first six months of which would be held in home confinement.
19 The probation office's recommendation is a sentence of
20 imprisonment of 33 months, which is the middle of the
21 guideline range.

22 I am imposing a sentence of 30 months which is the
23 low end of the guideline range.

24 Mr. Brown, I'm sure that's more than you were hoping
25 for. Mr. Meyer made a very cogent and thorough argument; but

1 for the reasons I've explained, there's more to it than just
2 consideration of what's good and appropriate for you, and I
3 have to take all of those objectives into account. I want you
4 to understand that the sentence could easily have been higher,
5 in fact, would have been higher than even the guideline range
6 based on what I see on those videos. The reason I'm imposing
7 a sentence within the guideline range is the very capable and
8 effective advocacy that Mr. Meyer has provided to you and in
9 particular in arguing about your relative youth and how the
10 Court should take that into consideration in assessing overall
11 your culpability and the prospects for your future and how the
12 Court should take that into account in evaluating your past
13 criminal history. And as I said earlier, I take that into
14 account, and that's why I'm not imposing a sentence above the
15 guideline range but one within the guideline range.

16 And for the same reasons, those same reasons
17 contribute to why I'm imposing the sentence at the low end of
18 that range. Along with Mr. Meyer's point that the conditions
19 that you've been serving your sentence under -- well, not your
20 sentence but your pretrial custody under during this pandemic
21 have been harsher than normal, have been more punitive than
22 normal. So I will give you some consideration in that regard
23 as well. But this is -- as I am required to impose, this is
24 the sentence that is sufficient but not greater than
25 necessary. I can't agree a sentence less than this, for

1 someone with your record and someone who has thus far
2 demonstrated such disregard for the law, I can't conclude that
3 a lower sentence is appropriate here or will serve all of the
4 objectives that I'm required to consider.

5 Mr. Brown is unlikely to have significant financial
6 resources to pay a fine. No fine will be imposed.

7 Oh. The other thing I wanted to say is -- with
8 respect to the defense request is there will be a term of
9 supervised release of three years imposed, but the defense
10 request of -- proposed substitution, if you will, of six
11 months of home confinement is not persuasive to the Court. I
12 don't find that home confinement would be terribly meaningful
13 in light of the conduct reflected on the video and the absence
14 of any reason to believe that Mr. Brown would be effectively
15 supervised while being confined to his mother's home. We'll
16 see how Mr. Brown does on supervised release. There will be a
17 term of supervised release.

18 Mr. Brown, if you violate the terms and conditions of
19 supervised release, you will be right back in front of me.
20 And I'm going to remind you about this conversation, and I'm
21 going to remind you and I'm going to remind Mr. Meyer what
22 he's argued. And I'm going to ask you, why in the world are
23 we here again? What didn't you understand about what we did
24 on January 25, 2021? And there's going to be more custodial
25 time if you commit more crimes. I don't want that to happen.

1 I want you to turn the page. I don't want to see the tragedy
2 of your life being spent behind bars. We're going to give you
3 during the term of supervised release as much help as we can,
4 get you some job training, get you in a treatment program, get
5 you in a GED program if you haven't already gotten a GED by
6 the time you get out. You would be foolish not to take
7 advantage of every opportunity that's given to you for
8 treatment, for training, for education. And I think -- I
9 mean, you told me you're already trying to do that. You
10 enrolled in a parenting class even though you don't have any
11 kids, but you're going to have kids some day because you're
12 going to have a life ahead of you. So that's great, and
13 that's what you need to continue to do. And we're going to
14 try to help you. We're not just going to try to help you.
15 We're going to insist you do it on penalty of going back to
16 jail. I don't want to be negative about it, but that's what
17 it means. That's your choice now. You either get with the
18 program or you stay behind bars. It's not more complicated
19 than that.

20 Restitution is not an issue in this case.

21 I am required to impose a special assessment of \$100
22 on the count of conviction.

23 All right. With respect to the term of supervised
24 release, that will be three years. It will be subject to the
25 terms and conditions recommended in the presentence

1 investigation report with the exception of the two conditions
2 that I think Mr. Meyer objected to, which was with respect to
3 discretionary condition 16. We'll delete the at work location
4 for probation officer's visits, and we'll delete the -- we'll
5 change the language for "at any reasonable time" to add "as
6 agreed in advance or as ordered by the Court."

7 Is that acceptable, Mr. Meyer?

8 MR. MEYER: Yes, Judge, it is. Thank you.

9 THE COURT: All right. And then I will not impose
10 the search condition, discretionary condition 23, for the
11 reasons set forth in Mr. Meyer's memo.

12 I am going to impose one additional condition because
13 I just had a case that revealed that this is actually not set
14 forth as a condition of supervised release, and that can
15 create some difficulties under certain circumstances.

16 I'm going to add as a condition that Mr. Brown appear
17 as ordered before the Court on any occasion when he is
18 required to be in court during the term of supervised release.
19 That's actually not stated there anywhere, so I'm making that
20 a term of supervised release.

21 All right. I think those were the only objections
22 you had identified, Mr. Meyer. Were there any I missed or any
23 others that you're seeking?

24 MR. MEYER: No, Judge. That's correct. Those were
25 the only two objections we had.

1 THE COURT: Okay. The Seventh Circuit has indicated
2 that during sentencing, defendants should be advised of
3 their -- of each term of supervised release and the reasons
4 that it is being imposed unless they waive that process, which
5 they may do where the recommended terms and conditions have
6 been made available meaningfully in advance of the sentencing
7 hearing with an opportunity to object.

8 Would you like me to go through all of the terms and
9 conditions of supervised release or does the defense waive
10 that process?

11 MR. MEYER: We will waive that today, Your Honor.

12 THE COURT: All right. All of the terms and
13 conditions of supervised release will be included in the
14 written judgment and commitment order.

15 All right. Mr. Brown, you have the right to appeal
16 the judgment in this case, including the sentence that I have
17 imposed here today. Mr. Meyer will continue to advise you
18 with respect to your appellate rights, but you should know
19 that if you wish to appeal, that appeal has to be initiated by
20 the filing of a notice of appeal in the district court for the
21 Northern District of Illinois within 14 days of the entry of
22 the judgment on the docket.

23 Mr. Meyer, the judgment will likely be entered on the
24 docket tomorrow, so that will start the 14-day clock.

25 Is the defense seeking any recommendations to the

1 Bureau of Prisons?

2 MR. MEYER: We are, Judge, one recommendation and one
3 additional request.

4 As far as a recommendation for placement, just as
5 near as practicable to Chicago to facilitate family visits.

6 THE COURT: All right.

7 MR. MEYER: And the other request is to waive the
8 costs of incarceration and supervision based on an inability
9 to pay.

10 THE COURT: All right. I will recommend to the
11 Bureau of Prisons that Mr. Brown be designated to a facility
12 as close to Chicago as possible.

13 Mr. Brown, you should understand I don't have the
14 authority to tell the Bureau of Prisons where they have you
15 serve the rest of your sentence. All I can do is make a
16 recommendation, and I'm happy to make that recommendation.

17 And I will grant the request to waive the costs of
18 incarceration.

19 All right. Ms. Fowlie, anything I neglected to cover
20 from probation's perspective?

21 PROBATION OFFICER: No, Your Honor. I believe you
22 covered everything.

23 THE COURT: Mr. McCarthy, anything else from the
24 United States?

25 MR. MCCARTHY: No, Your Honor.

1 THE COURT: All right. Mr. Brown is in custody. He
2 will be remanded to the custody of the marshal and under
3 marshal's custody be transported to the designated facility.

4 If there's nothing else, I think we're adjourned.

5 Mr. Brown, I wish you good luck in the future. I
6 don't want to see you back in my courtroom because that's
7 going to mean we've got a problem, all right. So good luck to
8 you. Take advantage of the opportunities you've been given.

9 All right. We're adjourned. Thank you.

10 MR. MEYER: Thank you.

11 MR. McCARTHY: Thank you.

12 (Which were all of the proceedings heard.)

13

14 C E R T I F I C A T E

15 I certify that the foregoing is a correct transcript,
16 to the extent possible, of the record of proceedings in the
17 above-entitled matter given the limitations of conducting
18 proceedings via videoconference.

19

20 /s/ KELLY M. FITZGERALD
21 KELLY M. FITZGERALD, CSR, RMR, CRR
22 Official Court Reporter

April 5, 2021

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